

Docket Number  
99-0138

**SCIMED Life Systems, Inc.**

**COMBINED DECLARATION AND POWER OF ATTORNEY  
for PATENT APPLICATION**

As a named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor of the subject matter claimed and disclosed in the patent application entitled: ANATOMICALLY CORRECT ENDOLUMINAL PROSTHESES, which is being filed herewith.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which may be material to patentability under 37 CFR § 1.56 (see page 3 attached hereto).

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d)/365 of any foreign patent application(s) or inventor's certificate(s) listed below.

FOREIGN PATENT APPLICATION OR CERTIFICATE NUMBER	DATE OF FILING (day, month, year)	COUNTRY

I hereby claim priority benefits under 35 U.S.C. § 119(e) of any U.S. provisional patent application(s) listed below.

U.S. PROVISIONAL PATENT APPLICATION NUMBER	DATE OF FILING (day, month, year)	DOCKET NUMBER (if applicable)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States Patent Application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by 35 U.S.C. § 112 first paragraph, I acknowledge the duty to disclose information which may be material to patentability under 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. PATENT APPLICATION NUMBER	DATE OF FILING (day, month, year)	STATUS (pending, patented, abandoned)

## POWER OF ATTORNEY

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and any counterparts thereof (including foreign) and to transact all business in the Patent and Trademark Office connected herewith:

**William J. Shaw, Reg. No. 43,111;**  
**Luke Dohmen, Reg. No. 36,783;**  
**Peter J. Gafner, Reg. No. 36,517;**  
**Todd P. Messal, Reg. No. 42,883;**  
**Robert M. Rauker, Reg. No. 40,782**

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct SCIMED Life Systems, Inc. to the contrary.

Please direct all correspondence in this case to SCIMED Life Systems, Inc. at the below address:

One SCIMED Place  
Mail Stop A150  
Maple Grove, Minnesota 55311-1566  
**Attn: William J. Shaw**  
(508) 650-8384

I hereby believe that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## NAMED INVENTOR(S)

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<b>Full Name of Inventor</b>	<b>Family Name</b>	<b>First Given Name</b>	<b>Second Given Name</b>
	Austin	Michael	Stephen
<b>Residence &amp; Citizenship</b>	<b>City</b>	<b>State or Foreign Country</b>	<b>Country of Citizenship</b>
	Galway	Ireland	Ireland
<b>Post Office Address</b>	<b>Post Office Address</b>	<b>City</b>	<b>State &amp; Zip Code/Country</b>
	Gardenfield, Tuam	Galway	Ireland

Signature of Inventor 1
Date

**§ 1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office,or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.